

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 95-02 Erie
)	
JASON J. SMITH)	

GOVERNMENT'S MOTION TO LIFT STAY OF ORDER

AND NOW comes the United States of America, by and through its counsel, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Marshall J. Piccinini, Assistant United States Attorney for said district, and states as follows:

1. On April 8, 2005, this Court granted the government's request to destroy certain evidence, denied the defendant's request for the return of property, and dismissed the defendant's request for the return of property which he claimed belonged to his brother. A copy of that Order is attached to this motion.

2. On May 18, 2005, upon motion of the defendant and without objection from the government, this Court issued an Order staying its April 8, 2005 Order pending the defendant's appeal to the United States Court of Appeals for the Third Circuit.

3. On July 29, 2005, the Third Circuit Court of Appeals dismissed the defendant's appeal, pursuant to Title 28, United States Code, Section 1915(e)(2)(B), because it lacked arguable merit.

4. It does not appear that the defendant has appealed the Third Circuit Court of Appeals' decision, and the time for doing so has passed.

5. Accordingly, the government requests this Court to lift the stay of its April 8, 2005 Order.

WHEREFORE, the government respectfully requests this Court to enter an order lifting the stay of its April 8, 2005 Order.

Respectfully submitted,

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United States Attorney

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